

**§ 165.845 Safety Zone; Lower Mississippi River, mile markers 94 to 97 above Head of Passes, New Orleans, LA.**

(a) *Location.* The following area is a safety zone: All navigable waters of the Lower Mississippi River, New Orleans, LA from mile marker (MM) 94 (29°57'32" N, 90°03'05" W) to MM 97 (29°55'19" N, 90°04'00" W), NAD83 datum, on the Lower Mississippi River, above Head of Passes.

(b) *Enforcement period.* The safety zone established by this section will be enforced only upon notice of the Captain of the Port Sector New Orleans (COTP). In accordance with 33 CFR 165.7, for each enforcement of a safety zone established under this section, the COTP will publish a notice of enforcement in the **Federal Register** as early as practicable. In addition, the COTP will also inform the public of the enforcement area and times of this section as indicated in paragraph (d) of this section.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited to all vessels and persons except vessels authorized by the COTP or designated representative. A designated representative means any Coast Guard commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of Sector New Orleans.

(2) Persons and vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF-FM Channel 16 or 67 or by telephone at (504) 365-2200.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement period of this safety zone through Vessel Traffic Service Advisories, Broadcast Notices to Mariners (BNMs), Local Notice to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: August 6, 2018.

**K.M. Luttrell,**

*Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket Number USCG-2018-0718]

RIN 1625-AA00

**Safety Zone; Allegheny River, Miles 43.5 to 45.5, Kittanning, PA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for all navigable waters of the Allegheny River, extending the entire width of the river, from mile marker (MM) 43.5 to MM 45.5. This safety zone is necessary to protect persons, property, and the marine environment from potential hazards associated with a boat race. Entry of persons or vessels into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh or a designated representative.

**DATES:** This rule is effective each day from 9 a.m. to 8 p.m. from August 17, 2018, through August 19, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0718 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Charles Morris, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 412-221-0807, email [Charles.F.Morris@uscg.mil](mailto:Charles.F.Morris@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
COTP Captain of the Port Marine Safety Unit Pittsburgh  
DHS Department of Homeland Security  
FR Federal Register  
MM Mile marker  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

**II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule

without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. This safety zone must be established by August 17, 2018 and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the safety zone until after the date of the boat race and compromise public safety.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest because immediate action is necessary to respond to the potential safety hazards associated with this boat race.

**III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Marine Safety Unit Pittsburgh (COTP) has determined that potential hazards associated with this boat race will be a safety hazard for anyone within a two-mile stretch of the Allegheny River. The rule is needed to protect persons, property, and the marine environment in the navigable waters within the safety zone before, during, and after the boat race.

**IV. Discussion of the Rule**

This rule establishes a safety zone from 9 a.m. on August 17, 2018 through 8 p.m. on August 19, 2018. The safety zone will be enforced each day during the effective period from 9 a.m. through 8 p.m. The safety zone will cover all navigable waters of the Allegheny River, extending the entire width of the river, from mile marker (MM) 43.5 to MM 45.5. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters before, during, and after the boat race. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Marine Safety Unit Pittsburgh. Persons and vessels seeking entry into this safety zone must request permission from the COTP or a designated representative.

They may be contacted on VHF-FM Channel 16 or by telephone at (412) 221-0807. Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful instructions of the COTP or a designated representative. The COTP or a designated representative will inform the public of the enforcement period for the safety zone as well as any changes in the schedule through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Broadcasts (MSIBs) as appropriate.

## V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, time, duration, and location of the safety zone. This safety zone encompasses a two-mile stretch of the Allegheny River for eleven hours on each of three days. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners (BNMs) via VHF-FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C.

605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the temporary safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888-REG-FAIR (1–888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the

Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting eleven hours that will prohibit entry on a two-mile stretch of the Allegheny River on each of three days. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

**PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0718 to read as follows:

**§ 165.T08–0718 Safety Zone; Allegheny River, miles 43.5 to 45.5, Kittanning, PA.**

(a) *Location.* The following area is a safety zone: All navigable waters of the Allegheny River, extending the entire width of the river, from mile marker (MM) 43.5 to MM 45.5.

(b) *Effective period.* This section is effective each day from 9 a.m. through 8 p.m. August 17, 2018 through August 19, 2018.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Marine Safety Unit Pittsburgh.

(2) Persons and vessels seeking entry into this safety zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or by telephone at (412) 221–0807.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful instructions of the COTP or a designated representative.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public of the enforcement period for the safety zone as well as any changes in the schedule through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Broadcasts (MSIBs) as appropriate.

Dated: August 6, 2018.

**F.M. Smith,**

*Lieutenant Commander, U.S. Coast Guard, Acting Captain of the Port Marine Safety Unit Pittsburgh.*

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**DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 3**

**RIN 2900–AQ10**

**Automatic Burial Benefits for Previously Unestablished Surviving Spouses**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Department of Veterans Affairs (VA) regulation governing persons who may receive VA burial benefits on behalf of a deceased veteran. As amended, the regulation reflects VA's current policy of paying an automatic burial benefit to surviving spouses who were not established in VA systems as a veteran's spouse at the time of the veteran's death. The intended effect of this amendment is to ensure that a veteran's surviving spouse receives burial benefits to which he or she is entitled at the earliest possible time.

**DATES:** This final rule is effective August 13, 2018.

**FOR FURTHER INFORMATION CONTACT:** Julieann (Jewels) Brantseg, Pension Analyst, Pension and Fiduciary Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave. NW, Washington, DC 20420, (202) 632–8863. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** This final rule amends the VA regulation regarding persons who may receive burial benefits, paid by the Veterans Benefits Administration (VBA), to ensure that the regulation properly reflects current VBA policy. On June 6, 2014, VA published in the **Federal Register** final burial regulations that permit VBA to automate certain burial allowance payments, pay flat-rate burial and plot or interment allowances, and establish priority of payments to certain survivors and estate representatives. Burial Benefits, 79 FR 32653. The revised burial regulations became effective July 7, 2014. *See* 79 FR 32653.

Burial regulations at 38 CFR 3.1700 through 3.1713 streamlined VBA's burial benefits program to ensure that VBA quickly, efficiently, and accurately delivers benefits to survivors and other individuals who incur the cost of a veteran's burial and funeral. The regulations established rules for the automatic payment of burial allowances that facilitated payment to many surviving spouses at the time VA updates its computer system to reflect the veteran's date of death. Other

individuals seeking reimbursement for burial expenses are paid on a first-to-file basis.

On December 16, 2016, Congress enacted Public Law 114–315, Sec. 101, which authorized VA to pay benefits under 38 U.S.C. chapters 13 and 15 and sections 2302, 2307, and 5121 “to a survivor of a veteran who has not filed a formal claim if [VA] determines that the record contains sufficient evidence to establish the entitlement of the survivor to such benefits.” *See* 38 U.S.C. 5101(a)(1)(B). This new statutory provision essentially affirmed VA's practice of providing automatic burial payments to surviving spouses under the current regulation. This rule brings about a procedural change that would allow VA to provide automatic burial payments to other surviving spouses whom VA determines are entitled to such benefits based on the record at the time VA updates its computer system to reflect the veteran's death, which we believe is consistent with the intent of section 5101(a)(1)(B).

Therefore, at this time, we amend 38 CFR 3.1702, which pertains to persons who may receive burial benefits and the priority of payments. The change in this final rule reflects the intent of the original amendments—to expedite the payment of these small, one-time benefit payments to survivors who generally have an immediate need for supplemental financial assistance after the veteran's death.

We amend § 3.1702(a), which permits VA to make automatic burial benefit payments to a deceased veteran's surviving spouse when VA is able to determine eligibility based on evidence of record at the time VA updates its computer system to reflect the veteran's date of death. We amend paragraph (a) to specifically state that a surviving spouse may receive an automatic burial benefit under certain circumstances, whether or not previously established as a dependent spouse on the veteran's compensation or pension award at the time of the veteran's death. There are several reasons why VA systems may not reflect the existence of a spouse at the time of a veteran's death even though a spouse does, in fact, exist. This could occur if a veteran was receiving disability compensation but was rated less than 30-percent disabled under the rating schedule. Such veterans with a service-connected disability rating of less than 30 percent are not entitled to additional compensation for spouses. *See* 38 U.S.C. 1115. It could also occur if a veteran has never claimed his or her spouse as a dependent. In addition, VA systems could show a spouse who is not the current spouse. This could occur if